



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2021-0753; FRL-9178-01-OGC]

### Proposed Consent Decree, Safe Drinking Water Act Claims

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with the Environmental Protection Agency (EPA) Administrator's October 16, 2017, Directive Promoting Transparency and Public Participation in Consent Decrees and Settlement Agreements, EPA is giving notice of a proposed consent decree to address a complaint filed by the Natural Resources Defense Council in the United States District Court for the Southern District of New York alleging that EPA failed to perform a mandatory duty under the Safe Drinking Water Act (SDWA). On January 19, 2021, the Plaintiffs filed a complaint pursuant to the SDWA alleging failure of the Administrator to issue revisions to EPA's consumer confidence report regulations by October 23, 2020. Under the proposed Consent Decree, the EPA would agree to a deadline for issuing the revisions.

**DATES:** Written comments on the proposed consent decree must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0753, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

*Instructions:* All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on the Proposed Consent Decree" heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our

staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov>, as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Leslie Darman, Water Law Office, Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564-5452; email address: [Darman.Leslie@epa.gov](mailto:Darman.Leslie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining a Copy of the Proposed Consent Decree**

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2021-0753) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

**II. Additional Information about the Proposed Consent Decree**

On January 19, 2021, the Natural Resources Defense Council filed a complaint pursuant to SDWA alleging failure of the Administrator to issue revisions to the consumer confidence

report regulations by October 23, 2020. (*Natural Resources Defense Council v. Michael Regan, Administrator of the United States Environmental Protection Agency, et al.*, No. 21-cv-461 (S.D.N.Y.)) Pursuant to Section 1414(c)(4) of the Safe Drinking Water Act (SDWA), EPA promulgated consumer confidence report regulations in 1998 to require “each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a “consumer confidence report”).” 42 U.S.C. 300g-3(c)(4)(A). In 2018, the America’s Water Infrastructure Act (“the Act”) amended Section 1414(c)(4) to require EPA to issue revisions to its consumer confidence report regulations “[n]ot later than 24 months after October 23, 2018,” or October 23, 2020, 42 U.S.C. 300g-3(c)(4)(F)(i), to increase “the readability, clarity, and understandability of the information presented in consumer confidence reports” and to increase “the accuracy of information presented, and risk communication, in consumer confidence reports.” 42 U.S.C. 300g-3(c)(4)(F)(i)(I)(aa)-(bb). The Act also provides that the CCR regulations (1) require community water systems serving more than 10,000 persons to provide a consumer confidence report to each customer “at least biannually” and (2) allow electronic delivery of the consumer confidence reports. 42 U.S.C. 300g-3(c)(4)(F)(i)(II) and 300g-3(c)(4)(F)(ii). The Act requires EPA to issue the revisions to the CCR regulations “in consultation with” “public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties,” 42 U.S.C. 300g-3(c)(4)(F) and 300g-3(c)(4)(A). EPA has not issued revisions to the consumer confidence report regulations as described in 42 U.S.C. 300g-3(c)(4)(F), 42 U.S.C. 300g-3(c)(4)(F)(i). Under the proposed Consent Decree, the EPA would agree to a deadline for issuing the revisions.

For a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate,

improper, inadequate, or inconsistent with the requirements of the Act.

### **III. Additional Information about Commenting on the Proposed Consent Decree**

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0753, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not

be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

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[FR Doc. 2021-23427 Filed: 10/26/2021 8:45 am; Publication Date: 10/27/2021]